

**FLOOD DAMAGE PREVENTION ORDINANCE  
Coastal Communities**

**TOWN OF DAUPHIN ISLAND, ALABAMA**

**ORDINANCE NO. 55**

**AN ORDINANCE FOR FLOOD DAMAGE PREVENTION IN THE TOWN  
OF DAUPHIN ISLAND, ALABAMA AND TO PRESCRIBE PENALTIES FOR  
VIOLATIONS THEREOF.**

**ARTICLE 1. STATUTORY AUTHORIZATION, FINDINGS OF FACT,  
PURPOSE AND OBJECTIVES**

**SECTION A. STATUTORY AUTHORIZATION**

The Legislature of the State of Alabama has in Title 11, Chapter 19, Sections 1-24, Chapter 45 Section 1-11, Chapter 52, Sections 1-84, and Title 41, Chapter 9, Section 166 of the Code of Alabama, 1975, authorized local government units to adopt regulations designed to promote the public health, safety, and general welfare. Therefore, the Town Council of the Town of Dauphin Island, Alabama, does ordain as follows:

**SECTION B. FINDINGS OF FACT**

- (1) The flood hazard areas of Dauphin Island, Alabama are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood relief and protection, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare of its citizenry.
- (2) These flood losses are caused by the occupancy in flood hazard areas of uses vulnerable to floods, which are inadequately elevated, flood-proofed, or otherwise unprotected from flood damages, and by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities.

**SECTION C. STATEMENT OF PURPOSE**

It is the purpose of this ordinance to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) restrict or prohibit uses which are dangerous to health, safety and property

due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights, or velocities, or erosion,

- (2) require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction,
- (3) control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters.
- (4) control filling, grading, dredging that would be detrimental to shore lines, bulkheads, seawalls, piers or wharf's and other development which may increase flood damage or erosion, and,
- (5) prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other land.

#### **SECTION D. OBJECTIVES**

The objectives of this ordinance are:

- (1) to protect human life and health,
- (2) to minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains,
- (3) to help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas,
- (4) to minimize expenditure of public money for costly flood control projects,
- (5) to minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public,
- (6) to minimize prolonged business interruptions, and
- (7) to ensure that potential home buyers are notified that property is in a flood prone area.

#### **ARTICLE 2. GENERAL PROVISIONS**

##### **SECTION A. LANDS TO WHICH THIS ORDINANCE APPLIES**

This ordinance shall apply to all Areas of Special Flood Hazard within the jurisdiction of Dauphin Island, Alabama.

#### **SECTION B. BASIS FOR AREA OF SPECIAL FLOOD HAZARD**

The Areas of Special Flood Hazard identified by the Federal Emergency Management Agency in its Flood Insurance Study (FIS), dated July 6, 1998, with accompanying maps and other supporting data and any revision thereto, are adopted by reference and declared a part of this ordinance. The Flood Insurance Study is on file at the Dauphin Island Town Hall, 1011 Bienville Blvd.

The special flood hazard areas were generated for storm surges and designated on the Flood Insurance Rate Maps (FIRMs) as Zones AE (base flood elevation data has been provided) and Zones VE (Coastal high hazard base flood elevation data has been provided). References to other special flood hazard areas have been omitted from this ordinance since they are not identified on the Dauphin Island FIRMs. If other special flood hazard areas are added as revisions to the FIRMs, this ordinance will be revised to reflect the additional zones. Since the FIRMs have been based on storm surges, paragraph 60.3(c)(10) of the CFR 44 (cumulative effects of proposed developments) has been omitted from this ordinance.

#### **SECTION C. ESTABLISHMENT OF DEVELOPMENT PERMIT**

A Development Permit shall be required in conformance with the provisions of this ordinance PRIOR to the commencement any Development activities. The permit shall be for all structures, including the placement of manufactured homes, as set forth in the "Definitions", and for all development including fill and other activities, also set forth in the "Definitions."

#### **SECTION D. COMPLIANCE**

No structure or land shall hereafter be located, extended, converted or altered without **full compliance** with the terms of this ordinance and other applicable regulations.

#### **SECTION E. ABROGATION AND GREATER RESTRICTIONS**

This ordinance is not intended to repeal, abrogate, or impair-any existing ordinance, easements, covenants, or deed restrictions. However, where this ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

## **SECTION F. INTERPRETATION**

In the interpretation and application of this ordinance all provisions shall be: (1) considered as minimum requirements; (2) liberally construed in favor of the governing body, and; (3) deemed neither to limit nor repeal any other powers granted under state statutes.

## **SECTION G. WARNING AND DISCLAIMER OF LIABILITY**

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur; flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the Areas of Special Flood Hazard or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the Town of Dauphin Island, Alabama or by any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made there under.

## **SECTION H. PENALTIES FOR VIOLATION**

Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$500.00 or imprisoned for not more than 30 days, or both, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Town of Dauphin Island, Alabama from taking such other lawful actions as is necessary to prevent or remedy any violation.

## **SECTION I. SAVINGS CLAUSE**

If any section, subsection, sentence, clause, phrase, or word of this ordinance is for any reason held to be noncompliant with 44 Code of Federal Regulation 59-78, such decision shall not affect the validity of the remaining portions of this ordinance.

### **ARTICLE 3.      ADMINISTRATION**

#### **SECTION A.    DESIGNATION OF ORDINANCE ADMINISTRATOR**

The Building Official is hereby appointed to administer and implement the provisions of this ordinance.

#### **SECTION B.    PERMIT PROCEDURES**

Application for a Development Permit shall be made to the Building Official on forms furnished by the community PRIOR to any development activities, and may include, but not be limited to the following: plans in duplicate drawn to scale showing the elevations of the area in question and the nature, location, dimensions, of existing or proposed structures, infrastructure elements, earthen fill placement, storage of materials or equipment, and drainage facilities.

Specifically, the following information is required:

(1)    Application Stage -

- (a)    Elevation in relation to mean sea level of the lowest floor, including basement, of all proposed structures, and substantial improvements;
- (b)    Elevation in relation to mean sea level to which any non-residential structure will be flood proofed;
- (c)    Design certification from a registered professional engineer or architect that any proposed non-residential flood-proofed structure will meet the flood-proofing criteria of Article 4, Section B(3)(a);
- (d)    Design certification from a registered professional engineer or architect that any new construction and substantial improvement placed in a Coastal High Hazard Area will meet the criteria of Article 4, Section D(4);
- (e)    Description of the extent to which any watercourse will be altered or relocated as a result of a proposed development.

(2)    Construction Stage

For all new construction and substantial improvements, the permit holder shall provide to the Administrator an as-built certification of the lowest floor elevation or flood-proofing level using appropriate FEMA Elevation or flood-proofing Certificate immediately after the lowest floor -or flood-proofing is completed. Where a structure is subject to the provisions applicable to Coastal High Hazard Areas, after placement of the lowest horizontal structural members of the lowest

floor. Lowest floor certification made relative to mean sea level shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When flood-proofing is utilized for nonresidential structures, said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same.

Any work undertaken prior to submission of these certifications shall be at the permit holder's risk. The Building Administrator shall review referenced certification data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work. Failure to submit certification or failure to make corrections required hereby, shall be cause to issue a stop-work order for the project.

#### **SECTION C. DUTIES AND RESPONSIBILITIES OF THE ADMINISTRATOR**

Duties of the Building Administrator shall include, but shall not be limited to:

- (1) Review all development permits to assure that sites are reasonably safe from flooding and requirements for new construction and substantial improvements in flood prone areas of this ordinance have been satisfied.
- (2) Review proposed development to assure that all necessary permits have been received from governmental agencies from which approval is required by Federal or State law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334. Require that copies of such permits be provided and maintained on file.
- (3) When Base Flood Elevation data have not been provided in accordance with Article 2 Section B, then the Building Administrator shall obtain, review and reasonably utilize any base flood elevation available from a Federal, State or other sources in order to administer the provisions of Article 4.
- (4) Verify and record the actual elevation in relation to mean sea level of the lowest floor level, including basement, of all new construction and substantially improved structures in accordance with Article 3, Section B(2).
- (5) Verify and record the actual elevation, in relation to mean sea level to which any new construction and substantially improved structures have been flood-proofed, in accordance with Article 4, Section B (3)(a). Maintain the flood-proofing certifications required in Article 4, Section B(3)(a).

- (6) When flood-proofing is utilized for a structure, the Building Administrator shall obtain certification of design criteria from a registered professional engineer or architect in accordance with Article 3(B)(1)(c) and Article 4 (B) (3)(a).
- (7) Obtain design certification from a registered professional engineer or architect that any new construction and substantial improvement placed in a **Coastal High Hazard Area** will meet the criteria of Article 4, Section D (4).
- (8) Notify adjacent communities and the Alabama Department of Natural Resources prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Emergency Management Agency (FEMA) and the Alabama Emergency Management Agency (AEMA).
- (9) For any altered or relocated watercourse, submit engineering data/analysis within six (6) months to the FEMA and State to ensure accuracy of community flood maps through the Letter of Map Revision process. Assure flood carrying capacity of any altered or relocated watercourse is maintained.
- (10) Where interpretation is needed as to the exact location of boundaries of the Areas of Special Flood Hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Building Administrator shall make the necessary interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this Ordinance.
- (11) All records pertaining to the provisions of this ordinance shall be maintained in the office of the Building Administrator and shall be open for public inspection.

#### **ARTICLE 4. PROVISIONS FOR FLOOD HAZARD REDUCTION**

##### **SECTION A. GENERAL STANDARDS**

In ALL Areas of Special Flood Hazard the following provisions are required:

- (1) New construction and substantial improvements of existing structures shall be anchored to prevent flotation, collapse and lateral movement of the structure;
- (2) New construction and substantial improvements of existing structures shall be constructed with materials and utilize equipment resistant to flood damage;
- (3) New construction or substantial improvements of existing structures shall be constructed by methods and practices that minimize flood damage;
- (4) All heating and air conditioning equipment and components, all electrical, ventilation, plumbing, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the

components during conditions of flooding.

- (5) Manufactured homes shall be anchored to prevent flotation, collapse, and lateral movement. Methods of anchoring may include, but are not limited to, use of--over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable State requirements for resisting wind forces.
- (6) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (7) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters; and
- (8) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- (9) All subdivision proposals and other proposed new development shall be consistent with the need to minimize flood damage;
- (10) All subdivision proposals and other proposed new development shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage; and
- (11) All subdivision proposals and other proposed new development shall have adequate drainage provided to reduce exposure to flood damage.
- (12) If any portion of a structure is located in a special flood hazard area or a shaded Zone X, the entire structure shall meet the requirements for the SFHA or Shaded Zone X, as appropriate.
- (13) If a structure is located in more than one flood zone (including Zone X) with multiple BFE's, the entire structure shall meet the requirements for the most stringent flood zone (or shaded Zone X) and the highest BFE.
- (14) *A concrete pad with no reinforcement may be poured beneath an elevated coastal building and must not be structurally attached to the building's foundation system. The concrete must be placed at grade and be no more than 4" thick. It is important to note that compliant concrete pads often collapse during coastal storms due to erosion and localized scour.*

**SECTION B. SPECIFIC STANDARDS – Zones AE not adjacent to Zones VE.**

In ALL Areas of Special Flood Hazard designated as Zone AE that are not adjacent to



VE Zone, the following provisions, in addition to Article 4, Section A, are required:

(1) Standards for Residential Construction

- (a) New construction and substantial improvement of any structure including manufactured home shall have the lowest floor, including basement, elevated no lower than two feet above the base flood elevation.
- (b) Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, unless they shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must be either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:
  - (i) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding.
  - (ii) The bottom of all openings shall be no higher than one foot above grade.
  - (iii) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- (c) So as not to violate the "Lowest Floor" criteria of this ordinance, the unfinished or flood resistant enclosure shall only be used for parking of vehicles, limited storage , or entry to the elevated area.
- (d) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.
- (e) *A concrete pad with no reinforcement may be poured beneath an elevated coastal building and must not be structurally attached to the building's foundation system. The concrete must be placed at grade and be no more than 4" thick. It is important to note that compliant concrete pads often collapse during coastal storms due to erosion and localized scour.*

(2) Standards for Non-Residential Construction - New Construction

- (a) New construction of any commercial, industrial, or other non-residential structure shall have the lowest floor, including basement, elevated no lower than *two feet* above the base flood elevation.
- (b) Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, unless they shall be designed to automatically equalize

hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must be either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

- (i) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding.
  - (ii) The bottom of all openings shall be no higher than one foot above grade.
  - (iii) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- (c) So as not to violate the "Lowest Floor" criteria of this ordinance, the unfinished or flood resistant enclosure shall only be used for parking of vehicles, limited storage of maintenance equipment used in connection with the premises, or entry to the elevated area.
- (d) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.
- (3) Standards for Non-residential Construction – Substantial Improvement

A substantial improvement of any commercial, industrial, or other non-residential structure may be flood-proofed in lieu of elevation.

- (a) If flood-proofed, the structure, together with attendant utility and sanitation facilities, must be designed to be water tight to one (2) feet above the base flood elevation, with walls substantially impermeable to the passage of water, and structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above based on their development and/or review of the structural design, specifications and plans, and shall provide such certification to the official as set forth above and in Article 3, Section C.A. An operational and maintenance plan shall be submitted to assure of flood proofing measures.
  - (b) If elevated, the structure must meet the same standards Article 4, Section B (2).
- (4) Standards for Manufactured Homes

- (a) All manufactured homes placed or substantially improved on:
  - (i) individual lots or parcels outside of an existing manufactured home park or subdivision,
  - (ii) in a new or substantially improved manufactured home park or subdivision,
  - (iii) in an expansion to an existing manufactured home park or subdivision, or
  - (iv) on a site in an existing manufactured home park or subdivision where a manufactured home has incurred "substantial damage" as flood, must have the lowest floor, including basement, elevated on a permanent foundation that is no lower than *two* feet above the base flood elevation.
- (b) Manufactured homes placed or substantially improved in an existing manufactured home park or subdivision may be elevated so that either:
  - (i) The lowest floor of the manufactured home is elevated no lower than *two* feet above the base flood elevation, or
  - (ii) The manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements of at least an equivalent strength) of no less than 60 inches in height above grade.
- (c) All Manufactured homes shall be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. (Refer to Article 4, Section A (5))

#### (5) Standards for Recreational Vehicles

All recreational vehicles placed on sites shall either:

- (i) Be on the site for fewer than 180 consecutive days, fully licensed and ready for highway use, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached structures or additions; or
- (ii) The recreational vehicle must meet the permit requirements of Article 2 Section C, the elevation requirements of Article 4, Section B (4) above, and the anchoring requirements Article 4, Section B (4)(c).

### **SECTION C.     ZONE AE ADJACENT TO ZONE VE**

Dauphin Island has experienced many destructive hurricanes in recent years. Areas on the island were over washed and several vertical feet of beach were displaced. Impacts

from the hurricanes produced Zone VE conditions in the Zone AE areas. To reinforce the benefits of using V-Zone design and construction techniques, all new construction and substantial improvements located in Zones AE that are adjacent to Zones VE shall be built to Zone VE requirements. Example: (1) on the west end of the island Zone AE 10 is adjacent to a Zone VE 10, therefore, all new construction and substantially improved structures located in Zone AE 10 areas are to be built to Zone VE 10 requirements. (2) south of Audubon Place where Zone AE 9 is adjacent to Zone VE 11, all new construction and substantial improvements in Zone AE 9 would be built to Zone VE 11 requirements.

VE zone regulations are described in Article 4, Section D below.

#### **SECTION D. COASTAL HIGH HAZARD AREAS (VE ZONES)**

Located within the areas of special flood hazard established in Article 2, Section B, are areas designated as Coastal High Hazard areas (VE Zones). These areas have special flood hazards associated with wave action and storm surges, therefore, the following provisions, in addition to Article 4, Sections A,B, and C, shall apply:

- (1) All new construction and substantial improvements of existing structures shall be located at least 25 feet landward of the reach of the mean high tide.
- (2) All new construction and substantial improvements of existing structures shall be elevated on pilings or columns so that the bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated no lower than *two* feet above the base flood elevation.
- (3) All pile and column foundations and the structures attached thereto shall be anchored to resist flotation, collapse, and lateral movement due to the combined effects of wind and water loads acting simultaneously on ALL building components, both non-structural and structural. Water loading values shall equal or exceed those of the base flood. Wind loading values shall be in accordance with the most current edition of the Standard Building Code.
- (4) A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions contained in Article 4, Section D(2) and D(3) herein.
- (5) Obtain the elevation (in relation to mean sea level) of the bottom of the lowest structural member of the lowest floor (excluding pilings and columns) of all new and substantially improved structures, and whether or not such structures contain a basement. The administrator shall maintain a record of all such information along with the required certifications under Article 4, Section D(4).

- (6) All new construction and substantial improvements shall have the enclosed areas below the lowest floor either free of obstruction or constructed with non-supporting breakaway walls, open wood lattice-work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. For the purpose of this section, a breakaway wall shall have a design safe loading resistance of not less than 10 and no more than 20 pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of 20 pounds per square foot (either by design or when so required by local or State codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:
  - (i) Breakaway wall collapse shall result from water load less than that which would occur during the base flood; and
  - (ii) The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and nonstructural). Wind and water loading values to be used in this determination shall be in accordance with Article 4, Section D(3).
- (7) If breakaway walls are utilized, such enclosed space shall be useable solely for parking of vehicles, building access, or limited storage. Such space shall not exceed 300 sq. ft. Such space shall not be used for human habitation.
- (8) The use of fill for structural support of buildings shall be prohibited..
- (9) *A concrete pad with no reinforcement may be poured beneath an elevated coastal building and must not be structurally attached to the building's foundation system. The concrete must be placed at grade and be no more than 4" thick. It is important to note that compliant concrete pads often collapse during coastal storms due to erosion and localized scour.*
- (10) There shall be no man-made alteration of sand dunes or mangrove stands which would increase potential flood damage;
- (11) Manufactured homes are prohibited in VE Zones.
- (12) Recreational vehicles shall be on the site for fewer than 180 consecutive days, be fully licensed and ready for highway use, or meet the requirements of Article 3, Section (B) and Article 4, Section D (1) through D (10).

#### **SECTION E. ZONE X (SHADED)**

Zone X (shaded) areas are located outside of the special flood hazard area; however, flooding frequently occurs in these areas. Therefore, all new residential construction and new construction of any commercial, industrial, or other non-residential structure shall have the lowest floor (including basement) elevated no lower than two feet above the highest adjacent grade or the center line of the street within the lot limits, whichever is greater. The following shall also apply:

- i. The new construction shall meet the requirements of Article 4, Section A.
- ii. Elevation - the structure shall be elevated on piers, posts, pilings,
- iii. columns, or a solid foundation. If a solid perimeter wall foundation is utilized, the floor openings requirements of Article 4, Section B (1)(b) shall be met.
- iv. Enclosed areas below the lowest floor shall be in accordance with Article 4, Section B (c) and (d).

#### **ARTICLE 5.     VARIANCE PROCEDURES**

- (A) The Board of Adjustment as established by the Town of Dauphin Island, Alabama shall hear and decide requests for appeals or variance from the requirements of this ordinance.
- (B) The board shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the Building Administrator in the enforcement or administration of this ordinance.
- (C) Any person aggrieved by the decision of the Board of Adjustment may appeal such decision to the Circuit Court of Mobile County, Alabama, as provided by Alabama law.
- (D) Variances may be issued for the repair or rehabilitation of Historic Structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a Historic Structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- (E) Variances may be issued for development necessary for the conduct of a functionally dependent use, provided the criteria of this Article are met, no reasonable alternative exists, and the development is protected by methods that minimize flood damage during the base flood and create no additional threats to public safety.

- (F) In reviewing such requests, the Board or Adjustment shall consider all technical evaluations, relevant factors, and all standards specified in this and other sections of this ordinance.
- (G) **Conditions for Variances:**
- (1) A variance shall be issued **ONLY** when there is:
    - (i) a finding of good and sufficient cause,
    - (ii) a determination that failure to grant the variance would result in exceptional hardship, and
    - (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
  - (2) Variances are based on the general zoning law principle that they pertain to a physical piece or property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from the flood elevations should be quite rare.
  - (3) The provisions of this Ordinance are minimum standards for flood loss reduction; therefore any deviation from the standards must be weighed carefully. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief; and, in the instance of a Historic Structure, a determination that the variance is the minimum necessary so as not to destroy the historic character and design of the building.
  - (4) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation of the proposed lowest floor and stating that increased flood insurance will be commensurate with the increased risk to life and property resulting from the reduced lowest floor elevation, with premium rates up to amounts as high as \$25 for \$100 of insurance coverage.
  - (5) The Building Administrator shall maintain the records of all appeal actions and report any variances to the Federal and State Emergency Management Agencies upon request and report such variances

issued in its biennial report submitted to FEMA.

- (H) Upon consideration of the factors listed above and the purposes of this ordinance, the Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

## **ARTICLE 6. DEFINITIONS**

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance it's most reasonable application.

**"Addition (to an existing building)"** means any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load-bearing wall other than a fire wall. Any walled and roofed addition which is connected by a fire wall or is separated by an independent perimeter load-bearing wall shall be considered "New Construction".

**"Appeal"** means a request for a review of the Administrator interpretation of any provision of this ordinance.

**"Area of special flood hazard" (Special Flood Hazard Area)** is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. Designations on the Flood Insurance Rate Maps are Zones AE and VE.-

**"Base flood"** means the flood having a one percent chance of being equaled or exceeded in any given year.

**"Basement"** means any area of the building having its floor sub grade (below ground level) on all sides.

**"Breakaway wall"** means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under **specific** lateral loading forces, without causing damage to the elevated portion of the building or the supporting foundation system.

**"Building": See "structure"**

**"Coastal High Hazard Area"** means the area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The area is designated on the FIRMs as Zone VE.



**"Development"** means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations and storage of equipment or materials.

**"Elevated building"** means for insurance purposes, a nonbasement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, post, piers, pilings or columns.

**"Existing Construction"** Any structure for which the "start of construction" commenced before January 8, 1972.

**"Existing manufactured home park or subdivision"** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before January 8, 1972

**"Expansion to an existing manufactured home park or subdivision"** means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed, including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads.

**"Flood"** or **"flooding"** means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- a. the overflow of inland or tidal waters
- b. the unusual and rapid accumulation or runoff of surface waters from any source.

**"Flood Insurance Rate Map (FIRM)"** means an official map of a community, issued by the, delineating the areas of special flood hazard and/or risk premium zones applicable to the community.

**"Flood Insurance Study"** means the official report by the FEMA evaluating flood hazards and containing flood profiles and water surface elevations of the base flood.

**"Floodplain"** means any land area susceptible to flooding.

**"Floodway" (Regulatory Floodway)** means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

**"Functionally dependent use"** means a use which cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers,

shipbuilding, or ship repair facilities. The term does not include long-term storage, manufacture, sales, or service facilities.

**"Highest adjacent grade"** means the highest natural elevation of the ground surface, prior to construction, adjacent to the proposed walls of a structure.

**"Historic Structure"** means any structure that is;

- a. Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminary determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register:
- b. Certified or preliminary determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminary determined by the Secretary to qualify as a registered historic district:
- c. Individually listed on a state inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the Secretary of the Interior; or
- d. Individually listed on a local inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:
  1. By an approved state program as determined by the Secretary of the Interior, or
  2. Directly by the Secretary of the Interior in states without approved programs.

**Lowest floor** means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage, in an area other than a basement, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of non-elevation design provisions of this ordinance.

**"Mangrove stand"** means an assemblage of mangrove trees which is mostly low trees noted for a copious development of interlacing adventitious roots above the ground and which contain one or more of the following species: Black mangrove (Avicennia Nitida); red mangrove (Rhizophora Mangle); white mangrove (Languncularia Racemosa); and buttonwood (Conocarpus Erecta).

**"Manufactured home"** means a building, transportable in one or more sections, built on a permanent chassis and designed to be used with or without a permanent foundation

when connected to the required utilities. The term also includes park trailers, travel trailers, and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property.

**“Manufactured home park or subdivision”** means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**“Mean Sea Level”** means the reference for establishing various elevations within the floodplain. For purposes of this ordinance, the term is synonymous with the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum or 1988, or other datum.

**“New construction”** means ANY structure for which the "start of construction" commenced after January 8, 1972.

**“New manufactured home park or subdivision”** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after January 8, 1972.

**“Primary frontal dune”** means a continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves during major coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively steep slope to a relatively mild slope.

**“Principally above ground”** means that at least 51 percent of the actual cash value of the structure, not including the value of the land, is above ground.

**“Recreational vehicle”** means a vehicle which is:

- a. Built on a single chassis;
- b. 400 square feet or less when measured at the largest horizontal projection;
- c. Designed to be self-propelled or permanently tow able by a light duty truck; and
- d. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**“Repetitive Loss”** An NFIP-insured structure that has had at least two paid flood losses of more than \$1,000 each in any 10 year period since 1978.

**"Sand dunes"** means naturally occurring accumulations of sand in ridges or mounds landward of the beach.

**"Start of construction"** (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (P.L. 97-348), includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, placement, or other improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of the structure on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation, and includes the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of buildings appurtenant to the permitted structure, such as garages or sheds not occupied as dwelling units or not part of the main structure. (NOTE: accessory structures are NOT exempt from any ordinance requirements) For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**"Structure"** means a walled and roofed building that is principally above ground, as well as a manufactured home. A gas or liquid storage tank.

**"Substantial damage"** means damage of any origin sustained by a structure whereby the cost of restoring the structure to it's before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. Substantial damage also means flood-related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damages occurred.

**"Substantial improvement"** means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The market value of the building should be (1) the appraised value of the structure prior to the start of the initial repair or improvement, or (2) in the case of damage, the value of the structure prior to the damage occurring.

The term does not, however, include either: (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and

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which are the minimum necessary to assure safe living conditions or; (2) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

**"Variance"** means a grant of relief from the requirements of this ordinance.

**"Violation"** means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in the Code of Federal Regulations (CFR) §44, Sec. 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) and corresponding parts of this ordinance is presumed to be in violation until such time as that documentation is provided.

#### **ARTICLE 7. SEVERABILITY**

If any section, clause, sentence, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance.

#### **ARTICLE 8. EFFECTIVE DATE**

This ordinance shall be in full force and effect from and after its adoption and publication as required by law on June 13, 3006. This Ordinance applies to property within the Town limits and police jurisdiction of the Town of Dauphin Island, Alabama and shall be in force and effect therein.

ADOPTED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF DAUPHIN ISLAND, ALABAMA THIS 6 DAY OF JUNE, 2006.

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JEFF COLLIER, MAYOR

ATTEST:

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GINGER SIMPSON, TOWN CLERK

TOWN OF DAUPHIN ISLAND, ALABAMA

**Certificate of Publication**

July 13, 2006

This is to certify that Ordinance Number 55, Town of Dauphin Island, Alabama was published by posting on at least three (3) Bulletin Boards in the Town from June 7, 2006 to June 12, 2006.

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GINGER SIMPSON  
TOWN CLERK

DATE: June 7, 2006